



## Terms of Use

Welcome to Push Health online health care practice portal. THESE TERMS OF USE, TOGETHER WITH OUR PRIVACY POLICY AVAILABLE AT [WWW.PUSHHEALTH.COM](http://WWW.PUSHHEALTH.COM), CONSTITUTE A LEGALLY BINDING AGREEMENT (this "Agreement") between Push Health, Inc., a California corporation ("Push Health", "we", "us", or "our"), and you, governing your use of the Push Health websites located at [www.pushhealth.com](http://www.pushhealth.com) and the Push Health mobile application (collectively, the "Sites"). BY SIGNING UP FOR AN ACCOUNT, OR BY ACCESSING OR USING THE SITES, YOU ARE ENTERING INTO THIS AGREEMENT AND YOU AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. Please read this Agreement carefully. If you are unwilling or unable to be bound by this Agreement, you must immediately cease your use of the Sites. We may update or modify this Agreement from time to time; the current version will always be made available on the Sites. Your continued use of the Sites after a new version of this Agreement has been posted constitutes your acceptance of the then-current Agreement.

### 1) Services

The Sites and the Material (as defined below) are provided for the limited purpose of facilitating communication and online health care services between authorized patients and authorized medical providers (the "Services"). The content of any communications between authorized patients and authorized medical providers is not itself part of the Services provided by Push Health, and Push Health has no responsibility for the content of such communications.

### 2) License

The Sites may contain information, data, text, software, sounds, images, and other material (collectively, the "Material"). If, and only if, you agree to, and are in full compliance with, the terms and conditions of this Agreement, Push Health grants you a personal, non-exclusive, non-transferable license to access and use the publicly available pages on the Sites and the Material contained therein solely for your personal non-commercial use. Any other use, duplication, distribution or other exploitation of the Sites, the Service, the Materials or any portion thereof is a violation of the terms of this Agreement and is strictly prohibited.

### 3) Use Restrictions

Without limiting the foregoing, you shall not directly or indirectly:

- republish, post, upload, frame, retransmit, redistribute, modify, remove any intellectual property or similar notices or otherwise reproduce the Sites, the Service or any Materials in any format to anyone in any way (other than the download to your personal computer that is inherent in viewing a web page);

- use any ad blocking mechanism, device, or tool to prevent the placement of advertisements in Push Health;
- access, attempt to access, or obtain any information regarding other users (including, without limitation, personal information and details regarding use of the Service);
- allow anyone else to use or access your username, account or password;
- deep-link to any page or portion of the Sites;
- use any robot, spider or other data mining or other automatic device, program, or similar process or means to access, acquire, copy or monitor the Sites, another user's information or systems, the Materials or any portion thereof, or in any way circumvent the navigational structure or presentation of the Sites or access any portion of the Sites other than with a commercial browser or the mobile applications developed and operated by us;
- breach or attempt to breach the security or authentication measures on the Sites or any network or database connected to the Sites;
- decompile, reverse engineer, disassemble or otherwise reduce any software code for the Sites to a human-readable form;
- make any automated high-volume or other use of the Sites for re-mailing, spamming or other purposes;
- use the Sites, the services offered through the Sites or the Material in violation of any applicable law, rule or regulation;
- submit any data, content or other material that contains a virus or other harmful component, or otherwise tampers with, impairs or damages the Sites, the Materials or any connected network or database, or otherwise interferes with any person or entity's use or enjoyment of the Sites;
- submit any data (including, without limitation credit card and other payment data), content or other material in violation of any applicable law or regulation, or that violates or infringes upon the patent, trademark, copyright, trade secret, privacy, publicity or other rights of any third party;
- submit any data (including, without limitation credit card and other payment data), content or other material that is false, misleading, deceptive, defamatory, obscene, indecent, threatening, abusive, offensive, harassing, or hateful; or
- misrepresent your identity, sponsorship, or affiliation with any third party, including using a third party's username, password, personally identifiable or other account information.

Push Health users must be at least 13 years old to use the Services, including, without limitation, the Site's prescription request feature. Users who are between 13 and 18 years old must have their parent or guardian read and agree to the terms of this Agreement on their behalf.

You will maintain the confidentiality of your account and other information and promptly notify us if you become aware of any third party use of your account or other information relating to the Sites or the services offered through the Sites. You are responsible for all acts, omissions, statements and other uses of your account and other information on the Sites and the Service.

We cannot and do not assure that other users are complying or will continue to comply with the foregoing rules of conduct or any other provisions of this Agreement, and, as between you and Push Health, you hereby assume all risk of harm or injury resulting from any such lack of compliance.

#### **4) Account Restrictions**

In addition to, and without limiting, the Use Restrictions provided in Section 3, you agree not to:

- (a) misrepresent or falsify your identity;
- (b) create duplicate accounts, other than through Push Health's approved Sub-Account feature;
- (c) use the Sub-Account feature to misrepresent your relationship with any third party; or
- (d) respond to any question or prompt or provide any personal information, in the course of creating your account or otherwise, that is false, misleading or untruthful

By accessing and using the Sites and the Service, you represent and warrant that you are a human being.

#### **5) Term and Termination**

This Agreement shall remain in full force and effect until the earlier of you stopping all use of the Sites and the Service, and termination by us for any reason (or no reason) at any time. The provisions of Sections 1 and 4-17 will survive any termination of this Agreement.

#### **6) Third Party Websites**

The Sites may contain links to third party websites that are beyond our control, including pharmacy locators, lab location locators and prescription drug databases. You acknowledge that by clicking on any of these links you will be taken to websites that are not controlled by Push Health, We are not responsible for the accuracy, reliability, or completeness of such third party websites or any contents or services offered therein.

In addition, Push Health does not endorse, and cannot ensure that you will be satisfied with, any products or services offered by a third-party, even if in connection with the Sites. Push Health does not control and is not responsible for the acts, omissions, statements and/or other conduct of any third parties, including medical professionals. You are solely responsible for making whatever investigation you feel necessary or appropriate before communicating with any third party.

#### **7) Change and Cancellation Requests**

To request a change or cancellation of an order or request made through the Service, please contact Push Health at [help@pushhealth.com](mailto:help@pushhealth.com). You may also message the medical provider directly through your account dashboard. We cannot guarantee, and have no obligation to ensure, that such change or cancellation will be accommodated. Once a medical provider has acted upon an order or request, any associated fees are non-refundable.

#### **8) User Content**

We have the right, but no obligation or responsibility, to monitor and refuse to process or post any request, information, or other content provided by a user ("User Content") that violates this Agreement or applicable law. We may identify users or disclose User Content to third parties when we believe in good faith that such identification or disclosure will either (i) facilitate compliance with laws, including, for example, compliance with a court order or subpoena, or (ii) help to enforce this Agreement and/or protect the safety or security of Push Health and our users, including the Sites and the Service. Moreover, we may remove User Content at any time for any reason or no reason whatsoever.

## 9) Ownership

The Sites and the Material are owned by Push Health or our licensors and protected under copyright and trademark law. Except for the revocable and limited license to access and use the Sites, Material, and Service, Push Health expressly reserves all intellectual property and other rights in and to the Materials, the Sites and the Services.

If you send us any suggestions, inventions, modifications, improvements, concepts, ideas or other information regarding the Sites, the Materials or the Service (collectively, "Ideas") by any means, you hereby agree that Push Health has no obligation to protect or keep the idea confidential for you or any other person or entity, and you hereby grant Push Health a perpetual, irrevocable, worldwide, fully paid up and royalty free, transferable and sublicenseable license to the Idea and all intellectual property and other rights in and to the Idea to use, modify, develop, create derivative works based on, and otherwise exploit the Idea in all forms, formats, manners and forever throughout the world for any purpose whatsoever, commercial or otherwise, without notice, compensation and/or approval to or from you or any other person or entity.

## 10) Changes and Operation

Push Health reserves the right to discontinue, change and/or modify the Sites, the Service and the Materials at any time, in any way, for any or no reason.

## 11) Disclaimers

**PUSH HEALTH IS NOT A MEDICAL PROVIDER. WE PROVIDE THE SERVICE SOLELY AS A COMMUNICATIONS TOOL FOR MEDICAL PROVIDERS AND PATIENTS. MEDICAL PROVIDERS WHO USE THE SERVICE ARE SOLELY RESPONSIBLE FOR ALL MEDICAL ADVICE, DIAGNOSIS AND TREATMENT PERFORMED THROUGH THE SERVICE BASED ON THEIR RESPECTIVE MEDICAL JUDGMENT. PUSH HEALTH DOES NOT SELECT, PERFORM, ANALYZE OR REVIEW ANY HEALTH CARE OR MEDICAL PROVIDERS AND YOU AGREE THAT ANY CARE REQUESTED, RECEIVED OR PROVIDED THROUGH THE SERVICE DOES NOT CONSTITUTE MEDICAL ADVICE, DIAGNOSIS OR TREATMENT BY OR FROM PUSH HEALTH IN ANY WAY. ADDITIONALLY, PUSH HEALTH DOES NOT PROVIDE ANY WARRANTY AS TO HOW LONG IT WILL TAKE FOR A MEDICAL PROVIDER TO PRESCRIBE ANY SERVICE THROUGH PUSH HEALTH. YOU ACKNOWLEDGE AND UNDERSTAND THAT THE SITES DO NOT REPLACE THE SERVICES OF LICENSED HEALTH CARE PROFESSIONALS AND THAT YOU SHOULD CONSULT WITH A MEDICAL PROVIDER REGARDING ANY HEALTH CONCERNS, QUESTIONS, SIGNS OR SYMPTOMS.**

**THE SITES, THE SERVICE AND THE MATERIALS ON OR OTHERWISE RELATED IN ANY WAY TO THE SITES ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND WITHOUT WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, PUSH HEALTH DISCLAIMS, AND YOU HEREBY WAIVE, ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, AVAILABILITY, SECURITY, COMPATIBILITY AND NON-INFRINGEMENT RELATED TO THE SITES, THE SERVICES AND THE MATERIALS ON OR OTHERWISE RELATED IN ANY WAY TO THE SITES.**

**PUSH HEALTH DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SITES, THE SERVICE OR ANY MATERIALS AND DOES NOT WARRANT THAT THE SITES, THE SERVICE OR ANY MATERIALS WILL BE ERROR-FREE, THAT ACCESS THERETO WILL BE UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SITES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. MOREOVER, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION DUE TO ANY SUCH ISSUE.**

**FURTHERMORE, PUSH HEALTH DOES NOT MAKE ANY REPRESENTATION AND IS NOT RESPONSIBLE FOR ANY ACTS, OMISSION, INFORMATION OR STATEMENTS PROVIDED BY ANY THIRD PARTIES (INCLUDING ANY MEDICAL PROVIDER OR TESTING FACILITY) AND RELIANCE ON ANY INTERACTION WITH OR INFORMATION FROM ANY SUCH THIRD PARTY IS STRICTLY AT YOUR OWN RISK. WITHOUT LIMITING THE RELEASES AND OTHER LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, IF YOU HAVE A DISPUTE WITH ANY SUCH THIRD PARTY YOU HEREBY RELEASE PUSH HEALTH AND/OR OUR AFFILIATES OR ANY OF THE FOREGOING ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, OWNERS, EMPLOYEES, AGENTS, REPRESENTATIVES AND ASSIGNS, FROM ALL CLAIMS, DEMANDS AND/OR DAMAGES OF EVERY KIND OR NATURE (KNOWN OR UNKNOWN) ARISING FROM OR RELATED TO SUCH DISPUTES.**

## **12) Indemnification**

You hereby agree to indemnify, defend, and hold Push Health and our licensors and each of the foregoing entities' respective officers, directors, owners, employees, agents, representatives and assigns (collectively, the "Indemnified Parties") harmless from and against any and all losses, damages, liabilities and costs (including settlement costs and any legal or other fees and expenses for investigating or defending any actions or threatened actions) incurred by the Indemnified Parties in connection with any claim arising out of any breach by you of this Agreement or claims arising from your use of the Sites, the Service and/or your account(s). You shall use your best efforts to cooperate with us in the defense of any claim. Push Health reserves the right, at our own expense, to employ separate counsel and assume the exclusive defense and control of any matter otherwise subject to indemnification by you.

## **13) Limitation of Liability**

**UNDER NO CIRCUMSTANCES SHALL PUSH HEALTH OR OUR LICENSORS OR ANY OF THE FOREGOING ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, OWNERS, EMPLOYEES, AGENTS, REPRESENTATIVES AND ASSIGNS, BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING LOST PROFITS, PERSONAL INJURY (INCLUDING DEATH) AND PROPERTY DAMAGE OF ANY NATURE WHATSOEVER, THAT RESULTS FROM THE USE OF, OR THE INABILITY TO USE, THE SITES, THE SERVICES OR THE MATERIALS, EVEN IF PUSH HEALTH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL PUSH HEALTH'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE EXCEED THE AMOUNT PAID BY YOU, IF ANY, OR \$100 (WHICHEVER IS LESS) FOR ACCESSING OR PARTICIPATING IN ANY ACTIVITY RELATED TO THE SITES OR SERVICE. MOREOVER, UNDER NO CIRCUMSTANCES SHALL PUSH HEALTH BE HELD LIABLE FOR ANY DELAY OR FAILURE IN PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM AN ACT OF FORCE MAJEURE OR CAUSES BEYOND ITS REASONABLE CONTROL.**

**THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS SECTION AND ELSEWHERE IN THIS AGREEMENT APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.**

**14) Additional Medical Provider Terms**

For the purposes of this Section 14 only, “you” refers to a medical provider (the “Provider”) or any person acting on the Provider’s behalf.

14.1) We treat the Provider in whose name an account is established as the owner of such account. The Provider is a party to this Agreement for all purposes. The Provider is likewise subject to all of the covenants, restrictions, limitations, representations, warranties, waivers and releases included in this Agreement.

14.2) Before using the Service, the Provider will execute the following agreements: (1) Business Associate Agreement in a form provided by us; (2) Affiliation Agreement; and (3) Third Party Network Agreement, if applicable.

14.3) You understand that the Push Health platform does not meet Drug Enforcement Agency (DEA) requirements for routing prescriptions for narcotics or other controlled substances.

14.4) You represent and warrant that: (i) you are authorized to submit any information you submit to us (“Provider Information”) and to enter into this Agreement on behalf of the Provider; and (ii) any such Provider Information is complete, accurate, and correct, including without limitation information regarding the Provider’s professional license for documentation purposes to prescribe healthcare services such as medications and lab tests for authorized patients.

14.5) You hereby grant Push Health a license to use and display your Provider Information, including but not limited to your trademarks, for the purpose of making the Service available to our users.

14.6) You will promptly notify us of any changes to the Provider’s license status, contact information, or other information linked to the Provider’s account.

14.7) You represent and warrant that the Provider’s license authorizes the Provider to prescribe medications and/or lab tests as appropriate.

14.8) You agree and understand that Push Health provides an administrative service for you and makes no representations or warranties as to the performance of prescribed services, the results of lab tests, or the efficacy of any treatments that you prescribe. All responsibility for the well-being of your patients is borne by you. You agree and understand that we cannot and do not guarantee any particular visibility, publicity, leads, contacts, or other perceived benefit to the Provider from using the Service.

14.9) You agree that your use of Push Health is subject to verification by us of your identity and credentials as a health care provider, and to your ongoing qualification as such. When necessary, you agree that we may use and disclose your personal information for such purposes, including making inquiry of third parties concerning your identity and professional and practice credentials. You authorize such third parties to disclose to us such information as we may request for such purposes, and you agree to hold them and us harmless from any claim or liability arising from the request for or disclosure of such information. You agree that we may terminate your access to or use of the Services at any time if we are unable at any time to determine or verify your qualifications or credentials.

14.10) You will promptly notify us of any order or demand for compulsory disclosure of health information if the disclosure requires access to or use of the Push Health. You will cooperate fully with us in connection with any such demand.

14.11) Compliance with Law. You are solely responsible for ensuring that your use of Push Health complies with applicable law, including laws relating to maintenance of privacy, security, licensure, scope of practice and confidentiality of patient and other health information. You agree that you

will follow all laws and rules governing the use of laboratory work and other provision of medical care as determined by your licensing board or other applicable authority. You represent to Push Health that you have obtained all proper authorizations required by law from your patients before using Push Health and accept all responsibility for acts or omissions resulting therefrom. You will not grant any user any rights to access or use of Push Health that they would not be allowed to have under applicable laws. We offer no assurance that your use of Push Health under the terms of this Agreement will not violate any law or regulation applicable to you. We may share Provider Information with third parties if we believe in good faith that such disclosure is helpful to (i) comply with a court order, warrant or other legal process, (ii) protect the rights, property or safety of Push Health or others, or (iii) investigate or enforce suspected breaches of this Agreement.

14.12) Indemnification. In addition to the indemnification obligations in Section 12 above, you hereby agree to indemnify, defend, and hold harmless the Indemnified Parties, from and against any claim, cost or liability, including reasonable attorneys' fees, arising out of or relating to: (a) the listing of your Provider Information on the Sites or Services; (b) any breach by you of any representations, warranties or agreements contained in this Agreement; (c) the actions of any person gaining access to Push Health under the account assigned to you; (d) your negligence or willful misconduct. Your indemnification obligations in this Agreement are cumulative, and are not intended to, nor do they, limit your indemnification obligations elsewhere in this Agreement or at law, even if such obligations arise or are occasioned or triggered by a single assertion, claim, circumstance, action, event or transaction.

#### **15) HIPAA Business Associate Agreement**

If you are subject to HIPAA as a Covered Entity or Business Associate (as defined in HIPAA) and use the Services in a manner that causes us to create, receive, maintain, or transmit Protected Health Information on your behalf, then you agree to the HIPAA Business Associate Agreement ("HIPAA BAA").

#### **16) Disputes, Arbitration and Venue**

The Sites are not intended for viewing and use outside the United States and Push Health makes no representation that the Sites, the Service or Material is appropriate or available for use in any particular location within the United States. Your use of or access to the Sites shall not be construed as the purposeful availment of the benefits or privilege of doing business in any state other than California. If you choose to access and use the Sites and related services, you do so on your own initiative and you are responsible for compliance with all applicable laws including any applicable local laws.

Any controversy, claim or dispute arising out of or relating in any way to your use of this Sites, the Service, any purchases made through this Sites, or your account, if any (collectively a "Claim"), shall be governed by the laws of California without respect to its choice (or conflict) of laws rules.

Both you and Push Health waive the right to bring any Claim as a class, consolidated, representative, collective, or private attorney general action, or to participate in a class, consolidated, representative, collective, or private attorney general action regarding any such Claim brought by anyone else. In addition, you and Push Health agree that any Claim shall be resolved by final and binding arbitration at the American Arbitration Association and waives any right to have a Claim tried by a jury.

The arbitration of all Claims shall take place in Los Angeles County, California in accordance with the Commercial Arbitration Rules and the Consumer-Related Disputes Supplementary Procedures of the American Arbitration Association in effect at the time of the Claim. Unless either party or the arbitrator requests a hearing, the parties will submit their arguments and evidence to the arbitrator in writing. The arbitrator will make an award based only on the documents. This is called a Desk Arbitration. If any party makes a written request for a hearing within ten days after the American Arbitration Association acknowledges receipt of a claimant's demand for arbitration (or the arbitrator requests a hearing), the parties shall participate in telephone hearing. In no event shall the parties be required to travel to Los Angeles to participate in the arbitration. Notwithstanding any provision in the Commercial Arbitration Rules and the Consumer-Related Disputes Supplementary Procedures to the contrary, the arbitrator shall not have the authority or any jurisdiction to hear the arbitration as a class, consolidated, representative, or private attorney general action or to consolidate, join, or otherwise combine the claims of different persons into one proceeding.

This arbitration agreement is subject to the Federal Arbitration Act and is enforceable pursuant to its terms on a self-executing basis. The arbitrator shall determine any and all challenges to the arbitrability of a claim. A judgment on the award of any court of competent jurisdiction may be entered upon the award.

#### **17) Entire Agreement; Amendment**

This Agreement (including the Privacy Policy) constitutes the entire agreement between you and Push Health related to the matters set forth herein, including the Sites, the Services, the Material and your use thereof; provided, however, that participating medical professionals and testing facilities have additional terms governing their use of the Sites and the Services.

#### **18) General**

This Agreement shall be governed by and construed in accordance with the laws of the State of California and the laws of the United States, without giving effect to any principles of conflicts of law. If any provision of this Agreement shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions. No waiver of any provision of this Agreement by us shall be deemed a further or continuing waiver of such provision or any other provision, and our failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision. In this Agreement, the word "including" is used illustratively, as if followed by the words "but not limited to." If you have any questions about this Agreement, please contact us at [help@pushhealth.com](mailto:help@pushhealth.com).

Last updated 3/29/21